IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE R.BASANT

TUESDAY, THE 4TH DECEMBER 2007 / 13TH AGRAHAYANA 1929

Bail Appl..No. 7421 of 2007()

CMP.10231/2007 of J.M.F.C.-II,NEYYATTINKARA
CRIME 513/07 OF PARASSALA POLICE STATION

.....

PETITIONER/IST ACCUSED

ANIL KUMAR,S/O. NELSON
ANU BHAVAN, PULIYARA CP. NO.XII/763,MARIYAPURAM,
CHENKAL DESOM,CHENKAL VILLAGE.

BY ADV. SRI.BLAZE K.JOSE

RESPONDENTS: COMPLAINANT

STATE OF KERALA, REP. BY PUBLIC
PROSECUTOR, HIGH COURT OF KERALA,
REPRESENTING CIRCLE INSPECTOR OF POLICE
PARASSALA POLICE STATION.

BY PUBLIC PROSECUTOR SRI.JAI GEORGE

THIS BAIL APPLICATION HAVING COME UP FOR ADMISSION ON 04/12/2007, THE COURT ON 04/12/2007 PASSED THE FOLLOWING:

R. BASANT, J.

B.A. No. 7421 OF 2007 E

Dated this the 4th day of December, 2007

O R D E R

Application for regular bail. The petitioner is the 1st accused. His brother is the 2nd accused and his father is the 3rd accused. He faces allegations in a crime registered for offences punishable, inter alia, under sections 366A and 376 IPC. The crime has been registered on the basis of a private complaint filed before the learned Magistrate and referred by the learned Magistrate to the police under section 156(3) Cr.P.C. The de facto complainant is the father of the alleged victim. The victim was a minor – below the age of 18 years on the date of the alleged offence. The petitioner was arrested on 9.11.07 and he continues in custody from that date.

2. The crux of the allegations against the petitioner is that he had kept the daughter of the de facto complainant in his custody from 17.1.07. The complaint about such keeping is seen filed before the Magistrate for the first time on 19.10.07. The petitioner has a case that the mother of the victim had committed

suicide because of the alleged cruelty of the father of the victim. To save the victim, the victim was permitted to reside along with the accused persons. There is no elements of the offence of rape alleged against the petitioner at all. No sexual intercourse had allegedly taken place. The petitioner asserts that the petitioner is willing to marry the alleged victim/daughter of the de facto complainant. The victim was produced before the learned Magistrate. She did not raise any complaint that she was subjected to the offence of rape while she was residing in the house of accused Nos.1 to 3. The learned counsel for the petitioner submits that though the victim is now with her father as the learned Magistrate when she was produced, could not send her in the custody of the petitioner, her statement has not been recorded yet. If the same were recorded, it would have been known to the police that the offences alleged, have not been committed at all. In these circumstances, the petitioner does not deserve to continue in custody any longer, submits the learned counsel.

3. The learned Public Prosecutor does not oppose the

application for regular bail. To a pointed query by this Court, the learned Public Prosecutor submits that the statement of the alleged victim is still not available in the case diary.

4. Having considered all the relevant inputs, I am satisfied that the petitioner deserves to be enlarged on bail now subject to appropriate conditions.

5. In the result, this petition is allowed. The petitioner shall be released on bail on the following terms and conditions:

i) The petitioner shall execute a bond for Rs.25,000/- (Rupees twenty five thousand only) with two solvent sureties each for the like sum to the satisfaction of the learned Magistrate.

ii) The petitioner shall make himself available for interrogation before the investigating officer between 10 a.m and 12 noon on all Mondays and Fridays, for a period of two months from the date of his release and thereafter as and when directed by the investigating officer in writing to do so.

(R.BASANT, JUDGE)

aks